IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7368 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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PRAVINBHAI RANCHHODBHAI DESAI DECD.THRO'HEIR MANJULABEN-W/O.
Versus
STATE OF GUJARAT

Appearance:
1. Special Civil Application No. 7368 of 1992
MR JITENDRA M PATEL for Petitioner
MS NANDINI JOSHI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 16/08/2002

ORAL JUDGEMENT

1. The petitioner, who was initially recruited as a

peon and thereafter promoted as a clerk by order dated 26-7-1991 in the office of the Special Auditor, has preferred this petition on an apprehension that his services as a clerk might be terminated, because, at the time of his initial appointment as a peon, he was 25 years and 3 months of age. It appears that, during the pendency of the petition, the petitioner has passed away and his heirs are brought on record. In-between, there was an order made on this petition disposing it off and relegating the heirs to the concerned authority for making a representation in respect of the family pension and reserving liberty to them for reviving the petition. The petition came to be revived by an order made in Miscellaneous Civil Application No. 530 of 2001 on 25-4-2001 since the representation was not accepted. No order made on any such representation is annexed to this petition after it is revived and there is no challenge to any such order.

2. It is clear from the averments made in the petition that it had been filed merely on an apprehension. The initial appointment of the deceased petitioner as a peon was made under order dated 10-9-1985, a copy of which is at Annexure "B" to the petition. Thereafter, the petitioner passed his SSC Examination and ultimately came to be promoted as a clerk by order dated 26-7-1991, at Annexure "D' to the petition. He had undergone training and was serving as a clerk. Since no order disturbing the services of the petitioner was made till he passed away, there arises no question of granting any relief merely on the apprehension which was expressed in the petition. Since the petitioner passed away during the pendency of the petition while working as a clerk, now ordinarily there should arise no question of going behind his initial appointment on any ground which was apprehended in the petition and if his heirs are entitled to family pension in accordance with the rules on the basis of services already rendered by him, it is expected of the State Government to make necessary orders in respect of family pension.

3. Subject to the above observations, since the petition was filed only on an apprehension and the petitioner continued to serve as a clerk till he died, no relief is required to be given in this petition. The petition is, therefore, rejected. Rule is discharged with no order as to costs.

[R.K.ABICHANDANI, J.]

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